



State of Illinois

ENVIRONMENTAL PROTECTION AGENCY

BOL Records Unit 144964

Mary A. Gade, Director

2200 Churchill Road, Springfield, IL 62794-9276

MEMORANDUM

DATE: June 2, 1995
TO: Distribution List
FROM: Bill Ingersoll *BI*
SUBJECT: Chemical Waste Management, Trade Waste Incineration
LPC #1631210009/St. Clair County
Compliance File

Chemical Waste Management, Trade Waste Incineration
LPC #1631210100/St. Clair County
Compliance File

Please find attached a copy of the Consent Order entered today in the Circuit Court of St. Clair County in the enforcement case against Chemical Waste Management's Trade Waste Incineration facility in Sauget, Illinois. This settlement resolves all of the outstanding RCRA violations for the TWI facility, and for the related Chemical Waste Management use of the Sauget property (LPC #1631210100). This includes violations of the prior Consent Order in the 1991 case (Docket No. 91-CH-529) and multiple referrals and updates for new violations. In addition, the settlement resolves violations which had never been referred for enforcement, but which were discussed in settlement negotiations.

The Consent Order requires the payment of \$225,000 to the Hazardous Waste Fund for oversight of the TWI facility. This is payable in a \$100,000 installment by June 16, 1995, and a \$125,000 installment due by June 1, 1996.

The Consent Order also provides for CWM to provide \$200,000 in services to further assist in the continued cleanup in the E.St.Louis area, and \$175,000 in services to aid in household hazardous waste disposal projects. The exact nature of these services is to be discussed further after proposals are received from CWM.

Based on this Consent Order, I am closing the following DLC files:

343-92 (Ingersoll) 411-92 (Kugler)
192-93 (Ingersoll)
614-93 (Ingersoll)
367-94 (Ingersoll)

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File Closing Memo

CWM/TWI

June 2, 1995

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Distribution List

BOL Division File, LPC #1631210009

BOL Division File, LPC #1631210100

Bruce Kugler

Mike Grant

Mark Schlueter

Linda Cooper

Ellen Morrow

Vicky VonLanken

Todd Marvel

Jane Rothe

DLC File No. 343-92

DLC File No. 411-92

DLC File No. 192-93

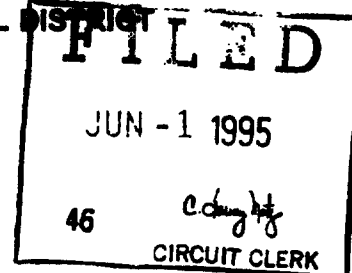
DLC File No. 614-93

DLC File No. 367-94

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IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL DISTRICT

ST. CLAIR COUNTY, ILLINOIS



PEOPLE OF THE STATE OF ILLINOIS,

Plaintiff,

v.

CHEMICAL WASTE MANAGEMENT, INC.,
a Delaware Corporation,

Defendant.

NO. 93-CH-264 and 91-CH-529

CONSENT ORDER

This action was commenced by the Attorney General of the State of Illinois on behalf of the PEOPLE OF THE STATE OF ILLINOIS, and at the request of the Illinois Environmental Protection Agency ("IEPA") against CHEMICAL WASTE MANAGEMENT, INC. ("CWMI"). The parties have agreed to this consent order and submit it to the court for approval. The parties stipulate that the terms herein are made exclusively for the purpose of settlement of this cause and are conditioned upon the court approving and disposing of this matter on each and every one of the terms and conditions set forth in this proposal for settlement.

NOW THEREFORE, without admission of violation or adjudication of any issue of law or fact it is hereby ordered and adjudged as follows:

I. JURISDICTION

The parties stipulate that this consent order, and all matters to which it refers, are within the jurisdiction of the court.

93-CH-529

II. PROPOSAL FOR SETTLEMENT

As a result of settlement discussions, the parties believe that the public interest will best be served by resolution of this enforcement action under the terms and conditions provided herein. This consent order is expressly conditioned upon and effective only with approval thereof in all respects by the court. This consent order supercedes the previous consent orders in the cases of People v. Chemical Waste Management, Inc., 90-MR-34 (St. Clair County) and People v. Chemical Waste Management, Inc., 91-CH- 529 (St. Clair County) and those orders will be of no further force and effect.

A. COMPLIANCE

CWMI shall maintain all required permits for the facility, and except as may be provided herein, Trade Waste Incineration's (TWI) operations shall only be governed by such permits.

B. OVERSIGHT

1. Oversight Payment

CWMI shall make the payments specified below in order for IEPA to continue oversight of the CWMI incinerator operations at the facility for the next two years; said oversight shall end on May 31, 1997. To fund such oversight, CWMI shall pay the amount of two hundred and twenty-five thousand dollars (\$225,000.00) to the Illinois Hazardous Waste Fund in two installments. The first payment of \$100,000.00 shall be paid by check, payable to the Treasurer of the State of Illinois and designated to the Illinois Hazardous Waste Fund.

Said check is to be submitted within 15 days of the entry of this consent order to:

Manager, Fiscal Services Section
Illinois Environmental Protection Agency
2200 Churchill Road
P.O. Box 19276
Springfield, Illinois 62794-9276

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CWMI's Federal Employer Identification Number, 36-2989152, shall be written on the face of said check. The second installment of \$125,000.00 shall be paid no later than June 1, 1996 in the manner described above.

2. Use of Oversight Funds

These funds may only be used to provide the following oversight measures:

- a. IEPA on-site observers to audit the incinerators' operation, data collection, monitoring and controls. This on-site inspection may be during any shift during any day. These observers may be IEPA personnel or independent contractors. Except for financial records and confidential or privileged documents, said observers shall have free access to all areas, equipment, and records on site related to implementation of this consent order.
- b. IEPA stack emission testing to measure any emissions, contaminants, or stack emission parameters as determined by IEPA.
- c. IEPA analysis of any waste or other material on site.
- d. Contractual consulting services to provide support for IEPA review of the trial burn plans, sampling, and reports required in Section IV.E.2, or for review of the permit applications submitted by CWM.

3. Obligations of Oversight Personnel

Persons and entities contracted by IEPA under this Section II.B shall be trained in and comply with company and regulatory safety and health procedures and policies. Such persons and entities shall not disclose to anyone except the IEPA trade secret, secret manufacturing process, or other confidential information obtained from or about CWMI or TWI.

4. Accounting of Expenditures

Within 30 days of receiving CWMI's request for an accounting, IEPA shall provide a written accounting of its expenditures of oversight funds to CWMI at a budget line item level of detail.

C. CIVIL PENALTY

In resolution of all Covered Matters as defined in Section III hereof, CWMI, without admitting violation, shall pay the amount of \$250,000.00 to the Attorney General's State Projects and Court Ordered Settlement Fund. On or before June 5, 1995, CWMI shall deliver, to the address specified below, a check in the amount of \$250,000.00 made payable to the Attorney General, State of Illinois, for deposit into the State Projects and Court Ordered Distribution Fund to be used exclusively by the Attorney General for the sole purpose of funding future enforcement efforts:

James L. Morgan
Senior Assistant Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706

CWMI's Federal Employer Identification Number, 36-2989152, shall be written on the face of said check.

D. ENVIRONMENTALLY BENEFICIAL PROGRAMS

To provide an additional environmental benefit to the citizens of the State of Illinois, CWMI shall:

1. East St. Louis Area Cleanup

Provide the amount of \$200,000.00 in services to aid in the cleanup of waste in the East St. Louis area of St. Clair County, Illinois. CWMI shall submit a proposal to the IEPA for mutual approval or modification within 60 days of the entry of this consent order to

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accomplish this purpose. This proposal shall include specific descriptions of available services and specifically describe how services are to be credited. CWMI shall implement the proposal pursuant to the agreed upon schedule, but it is agreed that such services may be provided over a 5 year period commencing June 1, 1995.

2. Household Hazardous Waste Disposal Project

Provide the amount of \$175,000.00 in services to aid the proper disposal of household and abandoned hazardous wastes and substances generated in St. Clair, Madison and Monroe Counties of Illinois. CWMI shall submit a proposal to the IEPA for mutual approval or modification within 90 days of the entry of this consent order to accomplish this purpose. This proposal shall include specific descriptions of the available services and specifically describe how services are to be credited. CWMI shall implement the proposal pursuant to the agreed upon schedule, but it is agreed that such services may be provided over a 5 year period commencing June 1, 1995.

E. ACCESS

Until May 31, 1997, in addition to any other inspection authority IEPA may have, IEPA and its authorized representatives, and employees or designated representatives of the Attorney General, upon presentation of appropriate credentials, shall have access to the facility at all reasonable times for the purposes of taking action in accordance with the terms of this consent order, including but not limited to, inter alia: inspection of records and operating logs related to operations of the facility; reviewing the progress of CWMI in carrying out the terms of its permits; conducting such tests and sampling as IEPA or the Attorney General deems necessary; using camera, sound recording device, or other documentary type equipment; and verifying the data submitted to IEPA for the Attorney General by CWMI. CWMI shall permit such representatives to inspect and copy all records, files, photographs,

documents, and other writings, including all sampling and monitoring data, which pertain to the work performed at the facility. Subject to the provisions of Section 7 of the Act, IEPA shall permit CWMI to inspect and request copies of all records, files, photographs, documents and other writings, including all sampling and monitoring data, which pertain to the work performed under this consent order.

III. COVERED MATTERS

This consent order covers a) all claims asserted, including those which could have been asserted, in the plaintiff's amended complaint in this cause (91-CH-529 and 93-CH-264, consolidated) concerning alleged violations of the Act (415 ILCS 5/1 et seq. (West 1992)) and the regulations promulgated thereunder and concerning alleged violations of the December 23, 1991 Consent Order in case number 91-CH-529; b) all complaints, claims or causes of action of any nature relating to matters addressed in notices of violations or potential violations, including but not limited to "incident reports," "operating condition event letters," and other such notifications relating to the operation of the TWI hazardous waste incinerator facility at Sauget Illinois submitted by CWMI to the IEPA prior to the effective date of this consent order; and c) the alleged violations by any person or entity set forth in the December 22, 1992 Notice of Violation Letter sent by the Attorney General to CWMI regarding the operation of an unpermitted waste transfer station in Sauget, Illinois. Covered matters do not include:

- i) Claims based on CWMI's failure to meet the requirements of this consent order;
- ii) Liability for future violation of state, local, federal, and common laws and/or regulations; and

- iii) Any future liability for natural resource damage or for removal, cleanup, or remedial action as a result of a release of hazardous substances or the liability of CWMI under section 22.2(f) of the Act (415 ILCS 5/22.2(f) (West 1992)), or under the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Sections 9401-9675).

IV. RESERVATION OF RIGHTS

- a. Except for Covered Matters resolved among the parties by this consent order, IEPA, the Illinois Attorney General, and CWMI reserve all rights, remedies and defenses they may have, including but not limited to the right to bring a cost recovery or enforcement action against anyone pursuant to the Act or other applicable law.
- b. Nothing herein is intended to release, discharge, or in any way affect any claims, causes of action or demands in law or equity against any person, firm, partnership or corporation not a party to this consent order from any liability it may have arising out of or relating in any way to any action at or in the vicinity of the facility.
- c. This consent order does not constitute evidence or admission of any violation of law or regulation.

V. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

1. The effective date of this consent order shall be the date it is approved by the court.
2. This consent order may be amended by mutual agreement of the parties. Any such amendments shall be in writing and shall be effective when such amendments are signed by the parties unless disapproved by the court.

3. All reports, plans, specifications, schedules and attachments required by this consent order shall be, upon written agreement of the parties or approval by the court, incorporated into this consent order.

4. No informal advice, guidance, suggestions or comments by IEPA or the Attorney General regarding reports, plans, specifications, schedules, and any other document submitted by CWMI may be construed as relieving CWMI of its obligation to obtain such formal approval as may be required by this consent order.

VI. PARTIES BOUND

The terms of this consent order shall apply to and be binding upon CWMI, the State of Illinois, IEPA, the Illinois Attorney General, their agents, successors, assigns, and upon all directors, officers, employees, persons, contractors, and consultants acting under or for CWMI, the State of Illinois, IEPA, or the Illinois Attorney General.

VII. RETENTION OF JURISDICTION

The court shall retain jurisdiction of this matter for the purpose of interpreting, implementing, and enforcing the terms and conditions of this consent order and for the purpose of adjudicating all matters of dispute among the parties arising out of this consent order.

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WHEREFORE, the parties have agreed to making of this consent order and submit it to the court so that it may be approved and entered.


Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

JAMES E. RYAN
ATTORNEY GENERAL

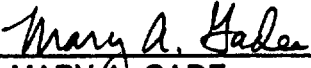
MATTHEW J. DUNN, Chief
Environmental Enforcement Division

Date: May 31, 1995

BY: 
THOMAS DAVIS, Acting Chief
Environmental Bureau
Assistant Attorney General

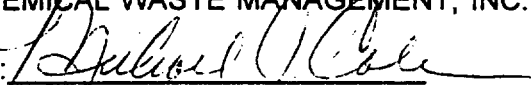
ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

Date: May 30, 1995

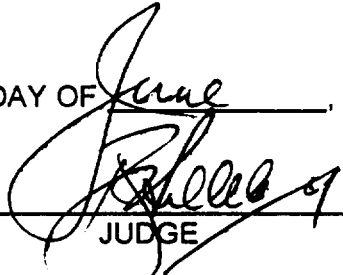
BY: 
MARY A. GADE
Director

CHEMICAL WASTE MANAGEMENT, INC.

Date: May 30, 1995

BY: 
MICHAEL COLE
President

APPROVED AND SO ORDERED THIS 1st DAY OF June, 1995.


JUDGE

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